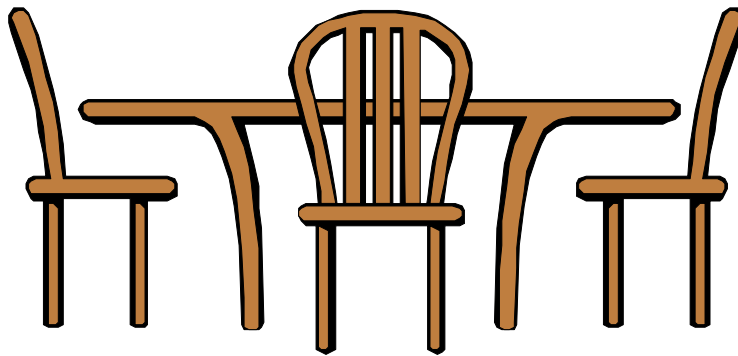


City of Savannah Tourism and Film Services



Policy to Regulate Temporary Uses onto City-owned Property and Public Rights of Way

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Dear Downtown Restaurant Owner:

In an effort to ensure the safety and pleasure of our downtown visitors and residents, the City has developed the attached “Policy to Regulate Temporary Uses onto City-owned Property and Public Rights-of-Way”. As you know, private use of the public right-of-way for outside seating has historically not been allowed in Savannah. However, it is the City’s intent to allow this use as defined in the attached policy.

As restaurant owners, you provide a great service to our community. This policy will enhance your ability to provide your service while creating a wonderful urban ambiance for your patrons. I look forward to working with you and your staff as we implement this policy.

Please review this manual to insure that your establishment will be in compliance with our policies and issued a permit of approval. We will review all applications, along with their required attachments, submitted on or before the 5th day of the month. Notification will be sent regarding the denial or approval of permit issuance.

If you have any questions or concerns please contact the Tourism and Film Services at (912) 651-2360.

Thank you for your assistance.

A Policy to Regulate Temporary Uses onto City-owned Property and Public Rights-of-Way

I. PURPOSE

The primary purpose of public rights-of-way is the free and unobstructed right of travel. However, the City recognizes that the use of certain public amenities including outside table service, park benches and planters may enhance the quality of life for Savannah residents so long as such use is not inconsistent with the underlying dedication for the public right-of-way, does not impede travel, and does not interfere with public safety or the rights of adjoining property owners. Therefore, temporary uses onto the public right-of-way may be approved by the City Manager or his/her designee.

The purpose of this policy is to:

- A) Provide for pedestrian and vehicular safety and convenience.
- B) Restrict unreasonable interference with the flow of pedestrian or vehicular traffic including ingress into or egress from any residence or place of business or from the street to the sidewalk by persons exiting or entering parked or standing vehicles.
- C) Provide reasonable access for the use and maintenance of poles, posts, handicap ramps, traffic signs or signals, hydrants, mailboxes and access to locations used for public transportation purposes.
- D) Maintain and protect the values of surrounding properties.
- E) Cooperate to the maximum extent possible with restaurant owners.
- F) To encourage and promote outside table service, park benches and planters as allowed uses which in turn encourages pedestrian activities and makes the urban environment more attractive.
- G) To preserve and enhance the character of the Historic Landmark District.

II. DEFINITIONS

- A) **Outside Table Service** - An outdoor dining area on a public sidewalk where patrons may consume food and/or beverages provided by an abutting food service establishment.
- B) **Administrator** - City Manager designee.
- C) **Streetscape Review Committee** - The City of Savannah's Preservation Officer, Downtown Programs Coordinator and Zoning Coordinator
- D) **Temporary Use** - Situated on, but not attached to, the public right-of-way.
- E) **Approval** - The temporary use approval created by this policy.

III. APPROVAL REQUIRED

It shall be unlawful for any person to use the public way in the City without first obtaining approval from the City Manager designee. Any person desiring approval shall file an application with the City requesting the approval and supplying such information in connection with the proposed temporary use as may be required by the City.

IV. APPLICATION FOR TEMPORARY USE APPROVAL

A) The issuing authority will be the City Manager designee.

B) Applications. The applicant shall file with the City Manager designee a written application for a temporary use of the public right-of-way. The application shall contain the following information:

- i. The name, address and telephone number of the applicant who is the owner and/or principal in charge of the restaurant.
- ii. The name, address and telephone number of a responsible person whom the City may notify or contact at any time concerning the applicant's requested temporary use.
- iii. The applicant shall provide a scaled drawing of the temporary use location. The drawing shall indicate the following: the proposed layout, materials and design, the relationship of the proposed temporary use to the curb, obstacles, existing building, and buildings on either side. The applicant shall not change, increase, or decrease the approved materials/layout without written authorization from the City Manager designee or a designated representative.

C) Action on Approvals: The City Shall

- i. Develop a map which is large enough in scale to show general approved City-wide locations for outdoor table service.
- ii. Process applications, ensure site sufficiency, and issue approvals. The City Manager Designee may approve all conforming applications. The Streetscape Review Committee will meet as needed to make recommendations for approval of any non-conforming applications.

V. FINDINGS

A) No permit may be issued until the application is approved by the City Manager designee and all of the findings are met.

1. The proposed temporary use meets the standards of this policy; and
2. The proposed temporary use does not unduly interfere with the use of the public right-of-way by adjoining property owners and tenants; and
3. The public use of the sidewalk, pedestrian, transit and business services including but not limited to loading zones, bus stops, public phones, and benches are not restricted; and
4. The proposed temporary use is complimentary to and not inconsistent with the underlying dedication for public right-of-way and is not inconsistent with the City's title or estate in the underlying public right-of-way; and
5. The proposed temporary use is compatible with the use and enjoyment of surrounding uses; and
6. The proposed temporary use does not impede travel on the public walkway or create a hazard to the safety or health of passers-by; and
7. The proposed temporary use does not unlawfully alter the associated use of the abutting property; and
8. The outside table furniture and barriers have been approved by the Streetscape Review Committee; and
9. Building entryways are not obstructed and
10. All ADA provisions are met.

VI. OUTSIDE TABLE SERVICE STANDARDS

A) All approvals issued pursuant to the terms of this policy shall conform to the following standards, and no approval may be issued which does not so conform:

- (1) Approval may be issued only to the operator of a business in the abutting property.
- (2) Outside table services cannot be located immediately adjacent to a ground floor residential use.
- (3) Temporary, mobile or free standing food service providers are not eligible under this policy.
- (4) Encroachment onto the public right-of-way for the purposes of displaying merchandise is not allowed under this policy.
- (5) A minimum three (3) foot unobstructed sidewalk shall be maintained between the tables and chairs and any tree lawn. A minimum six (6) foot unobstructed path shall be maintained if no tree lawn is present. No portion of any tree lawn may be used for outside table service.
- (6) The outside table service shall be located in a manner which will not interfere with visibility, vehicular or pedestrian mobility or access to City or public utility facilities. The determination of whether the outside table service (or any part thereof) interferes shall be made by the City Manager designee at the time of application based on the characteristics of each proposed site.
- (7) Any modification to public surface, such as borings for recessed sleeves or post holes must be approved in advance by the City Manager designee and Facilities Maintenance.
- (8) The height of any barrier or installed landscaping shall not exceed three feet, six inches (3'6") and shall be entirely portable.
- (9) Signs are not allowed in the outside table service area with the exception of a menu sign. Business names may be allowed on the valence of awnings and/or umbrellas as approved by the Historic District Board of Review; however, commercial and product logos are not allowed on the valence of awnings and/or umbrellas or in any other outdoor display.
- (10) All outside table service must end by 12AM. Upon the closing time of each restaurant, all furniture and barriers must be removed and the public walkway returned to its original condition.
- (11) All Fire Department regulations and standards concerning exterior lighting and power must be met.
- (12) All outside table services must be readily accessible to and useable by individuals with disabilities.
- (13) Approval is not transferable upon change in ownership or management.
- (14) Approved applicant must be in compliance with the Alcoholic Beverage Ordinance of 1998. Alcohol service at an outdoor table must conform to the license currently held.
- (15) Any alcohol served at an outdoor table must be served in a glass or plastic cup. Beer cans or bottles are prohibited and wine bottles must be presented in a sheath or ice bucket.
- (16) Use and occupation of the public right-of-way which is allowed under this chapter may be temporarily suspended, without prior notice or hearing, when, in the discretion of the City Manager designee, the police chief, or the fire chief any such use, occupation or obstruction may interfere with public safety efforts or programs, special events, street improvement activities, construction activities, cleaning efforts, or other similar activities or with the health, welfare, or safety of the citizens of the City.
- (17) Approvals shall be considered temporary and nonpermanent in nature and the applicant shall have neither property interest in nor any entitlement to the granting or any continuation of any such approval.

- (18) Outside table services are for sit-down food and beverage service only; no stand up service is allowed.
- (19) Outside tables shall be kept in a good state of repair and maintained in a clean, safe and sanitary condition in accordance with the Chatham County Health Department regulations.
- (20) All plans and letters of approval for the outside table service approved by the City must be kept on the premises for inspection at all times the establishment is open for business.
- (21) The City Manager designee may, in his or her sole discretion, place additional conditions upon the issuance of approval in order to ensure the protection of the public walkways and the rights of all adjoining property owners and the health, safety and general welfare of the public.

VII. INDEMNIFICATION OF CITY

A) As a condition of issuance, the approved applicant and any person acting under or pursuant to said approval, agrees to indemnify, hold harmless, release and defend (even if the allegations are false, fraudulent, or groundless) to the maximum extent allowed by law, the City Manager designee, the City, its City Council, and each member thereof, and its officers, employees, advisory board members and representatives, from and against any and all liability, loss, suits, claims, damages, costs, judgments and expenses (including attorney's fees and costs of litigation) which in whole or in part result from, or arise out of, or are claimed to result from or to rise out of any acts, negligence, errors, or omissions (including, without limitation, professional negligence) of approved applicant, its employees, representatives, contractors, subcontractors, or agents by reason of or arising out of, or in any matter connected with, any and all acts, operations, privileges authorized, allowed or undertaken pursuant to the temporary use approval including, without limitation, any condition of property used in the operations.

B) This agreement indemnity includes, but is not limited to, personal injury (including death at any time) and property or other damage sustained by any person or persons (including, but not limited to, companies, corporations, approved applicant and its employees or agents, and members of the general public).

C) As a further condition of issuance of the approval, the approved applicant covenants not to sue the City Manager designee, City, its City Council and each member thereof, and its employees, agents and representatives and shall cause its insurers to waive subrogation against the same with respect to any action, claim or demand in any way resulting from or connected with any and all undertakings and operations conducted pursuant to the temporary use approval.

VIII. LIABILITY INSURANCE

A) The approved applicant shall be required to have general liability insurance:

LIMITS

\$100,000 per person

\$200,000 per occurrence

Policy should be made out to the Mayor and Alderman of the City of Savannah and should name the City of Savannah as an additional insured.

IX. TERMINATION

A) In the event of a default or change in City policy, the City Manager designee may notify the approved applicant in writing of a termination and specify the time within which the termination is to take place or, in the discretion of the City Manager designee, immediately terminate the approval without prior notice. Upon delivery of a notice of termination, the City shall have the right to require the immediate removal of all obstructions in the public walk way, and may perform, such removal if the approved applicant fails to do so within such time as specified by the City Manager designee. The approved applicant shall reimburse the City for any expense incurred by the City in removing any obstruction in the event it is not removed by the approved applicant within the time required by the City.

X. LAPSE OR REVOCATION AND REFUSAL TO ISSUE

A) A person desiring approval for outside table service which has been the subject, in part or in whole, of a prior approval which has lapsed, been revoked, or terminated shall file a new application. The City Manager designee may refuse to issue such approval for outside table service if any applicant fails to meet any requirements for new approval, or if such person has failed or refused:

1. To repair public improvements or other property damaged as a result of the occupancy of a public right-of-way; or
2. To demonstrate readiness and willingness to comply with the terms of this policy, with the standards promulgated pursuant to this policy or with the terms of the approval.

XI. ENFORCEMENT

The City Manager designee shall be the enforcing authority and will issue approvals and ensure compliance with this policy.

A) Notice of violation of any standards of operation shall be made verbally or in writing to the approved applicant. Immediate abatement of such violation will be required by the approved applicant. Verbal notices of violation shall be followed by a written notice for purposes of establishing a record of violations at the discretion of the party giving verbal notice.

B) Violations of the terms of the approval or any provision of these standards shall be kept on file by the City. More than two violations within one year of the provisions of this policy shall constitute cause to discontinue the temporary use.

C) Upon termination of the approval, the applicant shall remove all personal property, furnishings, and equipment from the public right-of-way immediately.

D) Enforcement of the temporary use shall be by the City Manager designee and Zoning.

XII. APPEALS

A) Any person aggrieved by any action of the City Manager designee under this policy may appeal the decision to the City Manager setting forth the facts and circumstances regarding the appealed action. The City Manager shall notify the applicant, in writing, of the time and place set forth for the hearing on his or her appeal.

B) The right to appeal from the action of the City Manager designee shall terminate upon the expiration of fifteen (15) days following the date written notification advising the applicant of the action of the City Manager designee and of his or her right to appeal such action.

C) The hearing on the appeal shall be held within twenty (20) City business days of the City Manager's receipt of the appeal request.

D) The hearing shall be presided over by the City Manager. A decision regarding said appeal shall then be issued no later than ten (10) business days following said hearing. The decision of the City Manager shall be final.

XIII. This policy supercedes any and all approvals given prior to the implementation of this policy.

DESIGN STANDARDS

Sidewalk Café and Street Furniture

Applicant must provide specifications and a photograph of the proposed sidewalk furniture.

Sidewalk Café furniture must comply with the following requirements:

- All furniture must be dark green or black.
- All furniture must be durable enough to withstand weather and sidewalk conditions.
- The preferred materials for sidewalk café furniture are metal, wood, or wicker. However, some plastic may be appropriate.
- Any change in furniture requires approval of the City Manager designee.

Examples of Approved Furniture:

Manufacturer	Style	Color
Smith and Hawken	Parisian Park -armchair	Black or Green
Smith and Hawken	Parisian Park - chair	Black or Green
Smith and Hawken	Parisian Park 23" table	Black or Green
Smith and Hawken	Parisian Park 31" table	Black or Green
Smith and Hawken	Bistro - chair	Black
Smith and Hawken	Bistro - armchair	Black
Smith and Hawken	Bistro 26" table	Black
Smith and Hawken	Bistro 38" table	Black
Smith and Hawken	Dolce - armchair	Black or Green
Smith and Hawken	Dolce - 31" table	Black or Green
Woodward	Bentwood - table and chair	Green
Woodward	Parisienne - table and chair	Green

The Streetscape Review Committee will assist the applicant with selection of appropriate furniture if needed. This Committee will be comprised of the City of Savannah's Preservation Officer, Downtown Programs Coordinator and the Zoning Coordinator.

To obtain temporary use approval all street furniture must be reviewed by the Streetscape Review Committee as a part of the application process.